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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/780,507 01/08/97 ELLUL

M 9427C

EXAMINER

IM22/0208

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ART UNIT

PAPER NUMBER

1713

DATE MAILED:

02/08/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
08/780,507

Applicant(s)  
Ellul et al.

Examiner  
Fred Zitomer

Group Art Unit  
1713



☒ Responsive to communication(s) filed on Nov 21, 2000

☒ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-5 and 10-19 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-5 and 10-19 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1.

This responds to the communication of November 21, 2000. The rejection of record of the remaining claims under 35 U.S.C. 102(e) as being anticipated by Masuda et al. is maintained as stated below. No claim is allowed.

2.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3.

Claims 1-5 and 10-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Masuda et al., US 5,525,675.

Masuda teaches thermoplastic elastomer compositions and articles thereof comprising the claimed amounts of propylene homopolymer and partially crosslinked ethylene-propylene-nonconjugated diene rubber [Abstract]. Propylene polymers having a syndiotactic pentad of at least 0.7, notably at least 0.85, and specifically of 0.91 *inter alia* are disclosed, exemplified and claimed [column 3, lines 26-35; column 7, lines 22-24; claims 1 and 2]. The disclosures of Masuda are commensurate with the instant invention.

Applicant's arguments filed November 21, 2000 have been fully considered but they are not persuasive. The gist of said arguments is that the present claims are fully supported by inherency in the parent applications. The examiner disagrees because the limitations relating to the syndiotactic pentad of the instant propylene homopolymers are neither disclosed nor

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suggested in the parent applications. This is pertinent because the Masuda patent was issued subsequent to the declaration of Paper No. 11 showing criticality for the instant syndiotactic pentads. By stark contrast the claims in applicant's parent applications encompass polymers not shown to have the claimed syndiotactic pentads, and nothing on this record shows that applicant recognized the value of polymers having said pentads prior to the recognition of such by Masuda. Accordingly, the present claims are anticipated by Masuda and no ground for interference exists.

4.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

5.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Zitomer whose telephone number is (703) 308-2461. The examiner can normally be reached Monday through Friday from 7:30 AM to 4:00 PM.

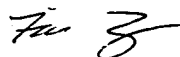
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If attempts to reach the examiner by telephone are unsuccessful David Wu can be reached at (703) 308-2450. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3599.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2351.



FRED ZITOMER, PhD  
PRIMARY EXAMINER  
ART UNIT 1713

Zitomer/fz  
February 7, 2001